I, Mark Northam, , email mark@mnvisa.com, 302/33 Lexington Drive, Bella Vista NSW 2153, Registered Migration Agent MARN 1175508 make the following submission to the Senate Standing Committees on Legal and Constitutional Affairs in response to the Senate Inquiry into the *Migration Amendment (Regulation of Migration Agents) Bill 2017.*

As a lawyer with a restricted practicing certificate (in my first 2 years of being a lawyer) and an RMA, I am deeply opposed to the current bill as it would essentially require me to close my established RMA business and hand over my clients to a competitor if I wanted to retain my licence to practice law. I do not believe it is an aim of the process of ending compulsory dual registration that small businesses serving clients be forced to shut their doors and close down, and am writing today to ask that you amend the bill to eliminate or modify the dangerous provisions that threaten small businesses such as mine.

As an over-50 entrant into the legal profession, I started in 2011 as an RMA and built up a successful career as an RMA. In an effort to provide more and better services to my clients, I went to law school and became a lawyer. Now as a supervised lawyer and RMA, I have the ability to provide migration advice to clients directly via my RMA registration while at the same time being supervised for legal court work by my supervising lawyer. If this bill were to pass as written, I would essentially be forced to either abandon my RMA clients in order to keep my hard-earned practising certificate, or hand those clients over to the supervising firm with no idea whether the firm will honour existing fees, agreements or terms with my clients.

It’s my view that the bill as written fails to properly consider the circumstances of supervised lawyers, and vastly minimises what little recognition there is in paragraph 50 of the *Explanatory Memorandum* that refers to persons in my situation (supervised lawyers who are also RMAs) having to “adjust the way in which they provide such services”. This doesn’t begin to cover the damage to my career and business that would result from the bill as written. Forcing a business to close its doors and hand over its entire customer base to another competing business goes far beyond an “adjustment” and is an extreme measure that I believe is not called for.

The inconvenience and potential continuity of service problems for clients is substantial, as is the potential for problems developing should the firm I give my clients to decide to change the way in which the clients are served. The end result will be a forced closure of my RMA business and a “shotgun marriage” with a supervising firm, putting me at an extreme disadvantage in any negotiating with the supervising firm since the law as written will strip me of my MARA registration on 1 July 2018 with no avenue for appeal or transition. Simply put, my back is against the wall and unless I’m willing to give up my practising certificate and with it any chance of becoming an unrestricted lawyer, I will have to close my business and hand over my clients to a competitor in hopes of fair treatment by that competitor. My income (which is my family’s income) will be put into extreme peril, and the successful business I’ve worked night and day to build for the last 5 years will be forced to close its doors.

While that's great for supervising law firms (a windfall, in fact), it amounts to a forced business closure for the RMA simply in order to be able to continue doing they are

already legally able to do now - provide migration advice (not legal advice/services) to their own clients, while also undertaking part-time supervision as a lawyer which could be in an entirely different area of law depending on what opportunities exist.

For example, imagine if an RMA becomes a lawyer and wants to do family law work, and is fortunate enough to land a part-time supervision arrangement (likely unpaid) at a family law firm as a supervised family lawyer. The supervising family lawyer would likely not be qualified to supervise any immigration work so the RMA's work could could not be done through the family law firm supervision arrangement, and the language in the bill will result in the government stripping the RMA of his MARA registration on 1 July 2018, forcing the RMA to close his RMA business as he would have no legal way to provide migration advice to his clients. With regard to the language in the bill, it would appear that the world of part-time supervised RMA/lawyers wasn't even considered. This is not surprising given the limited consultation with the industry that occurred, involving only a few handpicked people at the LCA and MIA sworn to secrecy about the process.

Where on earth is the justification or fairness in the government forcing this person to shut down their RMA business (or sell/give it away) simply because they are being supervised in a different area of law on a part-time basis?

I understand and agree with the benefits of ending compulsory dual registration, but would respectfully request that you consider supporting amendments to the bill to either allow lawyers to opt-in to MARA registration should they wish to, exempt supervised lawyers from being stripped of their MARA registration (with a reasonable time limit so supervised lawyers don't artificially extend their period of supervision), or provide a transition period for lawyers so that they have x years from the date they first receive a supervised practising certificate to complete their supervision period and be granted an unrestricted practising certificate.

Once a lawyer has an unrestricted practising certificate, that is an entirely different scenario as the lawyer would have the ability to transition his/her RMA business into his/her own law firm even as a sole practitioner lawyer. This is an ability that supervised lawyers do not have, with the current bill causing dire consequences for supervised lawyers/RMAs.

I would also add my concern with the bill regarding allowing lawyers to practice migration law with no evidence of any sort of migration training or requirement for migration-specific continuing professional education. Migration law is one of the most complex areas of the law, and is constantly changing. Even as a migration agent I was regularly asked to help migrants who found themselves in dire circumstances due to errors and mistakes by lawyers who "dabbled" in migration law but didn't really understand the full depth and detail of the complex regulations that govern migration law. What's worse, under the current bill a lawyer would be prevented from achieving the additional professional registration of RMA even if he or she wanted to expand their professional knowledge and training beyond the very limited aspects of migration that are currently taught in most Australian law schools.

Additionally, important consumer protections that migration agents are required to provide such as providing all clients with the Consumer Guide document from

OMARA listing client rights and protections, and the protections for clients where under the OMARA code of conduct migration agents must not provide misleading information to the Department of Immigration and Border Protection may not exist for consumers as lawyers without an RMA registration have no such requirements. Other important OMARA protections for consumers such as the requirement that RMA's not engage in lodging applications with no reasonable chances of success may also not be available to clients of migration advisors who are not Registered Migration Agents.

Thanks for considering my views and please advise if I can provide any further information or assist in your consideration of these issues.

Mark Northam
Solicitor and Registered Migration Agent